IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

CRP.No. 3460 of 2001(B)

AGAINST THE ORDER DATED 30/07/2001 IN EA. 75 /2001 IN E.P.31 OF 1999 IN LAR.10/1985 of SUB COURT,THODUPUZHA

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REVN. PETITIONER: PETITIONERS/DECREE HOLDERS 1 TO 5,7,

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1. SANKARA PILLAI, PERUMBILIL HOUSE, THODUPUZHA EAST P.O.

2. P.N. NARAYANA PILLAI, RESIDING AT PERUMBILIL HOUSE, KAVITHA CLINIC, THODUPUZHA.

3. P.N. CHANDRASEKHARA PILLAI, RESIDING AT PERUMBILIL HOUSE, THODUPUZHA EAST.

4. P.N. SUKUMARAN PILLAI, PERUMBILIL HOUSE, THODUPUZHA.

5. P.N. PADMAVATHY, KONOLIL HOUSE, OTTALLOOR, KARIMKUNNAM P.O., THODUPUZHA.

6. SREEDEVI SADASIVAN, RESIDING AT PERUMBILIL HOUSE, THODUPUZHA EAST P.O.

BY ADV. SRI. V.G. ARUN

RESPONDENT/RESPONDENT-JUDGMENT DEBTOR:

STATE OF KERALA REPRESENTED BY THE DISTRICT COLLECTOR, IDUKKI.

BY GOVERNMENT PLEADER SRI. BASANT BALAJI

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

C.R.P.NO.3460 OF 2001

DATED THIS THE 17th DAY OF AUGUST, 2007

ORDER

This revision petition is preferred against the order of the Subordinate Judge, Thodupuzha against the dismissal of E.A.75/01, which was filed for restoring E.P.31/99, which was dismissed for default.

2. It is submitted that if the E.P. is not restored to file, there will be difficulty and therefore, it has to be restored. According to the decree holder, the amount is due from the Government as per land acquisition award. The problems was when the property was sought to be sold in auction, the upset price fixed as Rs.2,00,000/- (Rupees two lakhs only) and there were no bidders. Since the property was not sold, E.P. was dismissed. Law always permit the decree holder to file an application for reducing the upset price if there are no bidders. There was no such move and it was dismissed. One cannot attribute gross negligence or grave misconduct and therefore, I feel that an opportunity has to be given and therefore, the order under challenge is set aside. E.A. is allowed and the Execution Petition 31/99 is restored to file and both the parties are directed to appear before the Court

below on 20.9.07.

The Civil Revision petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE

Acd